

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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Western Waterproofing Company, Inc.,

Plaintiff,

-v-

Zurich American Insurance Company, et al.,

20-cv-3199 (AJN)  
19-cv-6386 (AJN)

ORDER

Defendants.

ALISON J. NATHAN, District Judge:

On November 18, 2021, Plaintiff Western Waterproofing requested leave to file a pre-discovery motion for summary judgment on an affirmative defense raised to Defendants BDG Gotham Residential, LLC and ZDG, LLC's counterclaim. Dkt. No. 182. Gotham and ZDG filed a letter stated that the "do not oppose Western's request, but ask the Court allow them to file a cross-motion" for summary judgment as well on their claim for declaratory judgment against the excess insurers. Dkt. No. 189. Starr Indemnity, on behalf of the excess insurers, opposes Western Waterproofing's request, Dkt. No. 190, and Gotham and ZDG's request, Dkt. No. 192. Western and Gotham and ZDG have submitted further letters in support of their requests. Dkt. Nos. 191, 193.

The Court DENIES both Western's request and Gotham and ZDG's request with leave to refile after the resolution of the pending cross-motions for summary judgment.

This resolves docket numbers 182, 189, and 193.

SO ORDERED.

Dated: December 6, 2021  
New York, New York



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ALISON J. NATHAN  
United States District Judge